

Serial No. 10/634,383

REMARKS

Claims 1-15 are presenting pending in the application. Claim 22 has been cancelled by this amendment. Claims 1, 5, 6, 10 and 14 are in independent form. All claims stand finally rejected under new art.

§102(b) rejections:

Claims 10-15 and 22 were rejected under §102(b) over Brown. Claim 10 has been amended to include the elements of claim 22, which were present in the original claim 10. Amended claim 10 requires that there is an adhesive arranged on the second side, and that the filter media is embedded in the adhesive and secured to the second side. Based upon the language of claim 10, the adhesive is a different element than the first material and the second material. This is further emphasized in claim 12 where the first material is stated as providing a base with the filter media secured to the base. Brown cannot meet the limitations of claim 10 or claim 12. Figure 6 of Brown illustrates that there is no adhesive, but only a first and second material. The ends of the filter media are shown embedded in what the Examiner has called the first material. This is also supported at column 5, lines 12-15 of Brown. Accordingly, amended claim 10 and claim 12 cannot be anticipated.

Claim 14 requires that a first wall, side wall and central wall are provided by a second material. The Examiner has argued that the first wall is provided by element 238 and the second wall is provided by element 239. The Examiner refers to Figure 8 and argues that the central wall is provided by element 264. However, Figure 8 is an elevational view of Figure 6. It can clearly be seen from Figure 6 that element 264 is not constructed from the second material, but rather the first material. The central wall 264 is the portion of the first material that bridges and

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is beneath the elements 238 and 239 in Figure 6. Brown cannot anticipate claim 14 for this reason.

§103 rejections:

Claims 1-7 and 9 were rejected under §103 over Brown alone. Claim 1 has been amended for clarity. The Examiner relies upon Brown to make the rejection. The Examiner acknowledges that Brown does not disclose tubes in fluid communication with the cavity, and concludes that it would have been obvious to provide the tubes to provide a connection between the filter and the engine. The Examiner has been provided support for this statement. Moreover, Brown does not disclose all of the other elements of claim 1. For example, claim 1 requires that the first wall either be in sealing engagement with at least one of the first tube or an end of the housing around an opening of the first tube. This is not shown in Brown since the Examiner has acknowledged that the tube is missing from Brown. Further, the Examiner has called element 238 the first wall, and the element 230 the opening. As seen in Figure 6, the first wall 238 does not seal around the opening 230.

The rejection of claim 1 is also improper because the second wall is not fluidly separated from the opening, as required by claim 1. The Examiner has called element 239 the second wall. As seen in Figure 6, element 239 is exposed to fluid in the opening 230 so that it cannot meet the limitations of claim 1.

Finally, claim 1 requires that the tube be supported by an end of the housing. There is no suggestion or motivation for one of ordinary skill to modify Brown to provide this feature. The case 200 is likely secured against a mounting block with a gasket arranged between the mounting

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block in the case 200. In any event, there is no support for the Examiner's statement that one would be motivated to provide a tube in Brown.

Claim 5 is allowable over Brown for the reasons stated above relative to claim 1. Specifically, there is no suggestion or motivation to modify Brown to support a tube at an end of the housing. Claim 6 is allowable for this reason also. Claim 6 is also allowable since it further requires that the central wall extend away from the first wall and be in engagement with the housing. The Examiner is calling the central wall 264 in Figure 8. As can be seen in Figures 6 and 8, the central wall is spaced from the housing 200 and 201. The element 264 is the portion bridging the concentric filter medias in between the seals 238 and 239 in Figure 6. Claim 7 is additionally allowable because Brown does not meet the limitation of the end of the housing "supporting" a second tube. The element 214 is merely a hole in the end and cannot be considered a tube that is supported by the housing.

Claims 8 and 12 were rejected under §103 over Brown in view of Schwandt. Claim 8 requires a case that defines the end and a cover opposite the end secured to the case. A third tube is supported by the cover. The Examiner considers element 88 in Schwandt to be the third tube. Modifying the cover 201 in Brown as shown in Schwandt will provide no benefit because the lower portion of the cover 201 is not in communication with any of the fluid within the housing (elements 200 to 201). That is, the bottom of the cover 201 is isolated from the fluid by the element 221. Claim 8 requires that the cover is opposite the end that is secured to the base, and that the end support a first tube. Accordingly, claim 8 requires that the third tube be arranged opposite the end with the first tube, thus requiring that any third tube of Brown be located in the portion of the cover 201 that is isolated from the oil by element 221.

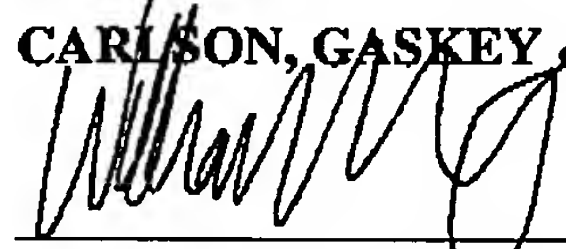
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The Examiner acknowledges that Brown does not disclose the center tube being formed with the base as a unitary structure. The Examiner states that Schwandt teaches a unitary center tube and base. First, it can clearly be seen in Figure 3 that the base and center tube are not a unitary structure. The O-ring shown between the base and the element 48 prevents an interpretation of claim 3 as the base and center tube being one structure since the center tube and base are not shown as one. Finally, the Examiner does not give any suggestion or motivation as to why one of ordinary skill would modify Brown to provide a center tube that is unitary with the base. Absent a suggestion or motivation, the rejection cannot be maintained.

It is believed that this application is in condition for allowance. If any additional fees or extensions of time are required, please charge to Deposit Account No. 50-1482.

Respectfully submitted,

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Dated: 1/13/06